

# Jury Managers' Toolbox

## *Converting from a 2-Step to 1-Step Jury System*

### Overview

The 2-step jury management system first qualifies prospective jurors, then summonses those who are qualified to report for jury duty. The 1-step summoning process combines the two steps into one. Research indicates that 2-step qualification and summoning systems tend to be less efficient compared to 1-step systems. In essence, the qualification process for 2-step courts tends to be imperfect, resulting in duplicative efforts by jury staff to manage undeliverable jury summonses and disqualified, exempted, and excused jurors during the later summoning stage of jury selection. Two-step systems are also more expensive insofar that they require two separate mailings (qualification questionnaire and jury summons), necessitating additional printing and postage costs. Overall, the NCSC estimates that the overall jury yield<sup>1</sup> for 2-step jury systems is 40% compared to 52% for 1-step jury systems.<sup>2</sup> As a result, printing and postage costs are an estimated 25% to 50% higher for 2-step jury operations. A final benefit of the 1-step process is that it eliminates the task of re-verifying qualification and administrative information with jurors who report for jury service.

This report describes the conversion process, discussing the different approaches for implementation, the practicalities of combining the questionnaire and summons, and experiences of other courts who have successfully converted to a 1-step process. It also provides a brief description of the historical origins of the 2-step jury process, showing that the original justification for the bifurcated process no longer exists.

### STEP 1 - Decide on the Approach

There are two typical approaches to converting from a 2-step to a 1-step jury system. The first is a phased-in approach in which the court retains the 2-step process while the 1-step process is introduced at a low volume. For example, the court continues to summon 90% of those reporting under the 2-step system (pre-qualified) and 10% under the new 1-step system. It would then gradually increase the proportion of jurors summonsed under the 1-step process until the 1-step system is fully operational. The theory behind a phased-in approach is to provide sufficient time for the trial court leadership and jury administration to gain the necessary experience and confidence in the new summoning system without risking a disruption in the pool of available jurors.

---

<sup>1</sup> To calculate the overall yield for a 2-step jury process, multiple the qualification yield by the summoning yield.

<sup>2</sup> Local court and community characteristics affect jury yields considerably. Typically, overall jury yields in 2-step courts are 10 to 15 percentage points lower than those of comparable 1-step courts.

### **A Note on the Historical Origins of the 2-Step Jury System**

Historians of court administration may be interested in the origins of the 2-Step jury system, which all courts employed until the mid-20th Century. The task of creating a list of jury-qualified citizens (Step 1) was traditionally conducted by the Jury Commissioner, a locally appointed or elected official. The qualified list was then turned over to the court, which would use it to summons jurors for trial (Step 2).

The 2-step jury system had an explicitly political purpose – namely, to serve as a local check on the power of the judiciary. This system of checks and balances was intentionally built into the jury system after the colonists’ experience with royally appointed judges, who tended to place the interests of the Crown ahead of the interests of the colonists. Even after the American Revolution, most judges “rode circuit” to preside in trials in the outlying courts; they were not necessarily selected from or familiar with the local community. The jury commissioner’s job was to identify “key men” who would represent the interests and values of the community when deciding cases. This is the origin of the term “key-man system.”

A convenient starting place for many jury commissioners was the local list of registered voters because the qualifications for jury service were usually the same as the voting qualifications (citizenship, residency, age, criminal history, etc.). They would then interview individuals or seek nominations from high-ranking businessmen, local government officials, and clergy for names of people to add to the qualified juror list.

Key-man systems came under a great deal of criticism during the Civil Rights Era because they tended to discriminate against racial and ethnic minorities, either intentionally or simply because socio-economic divisions in most communities prevented jury commissioners from being sufficiently acquainted with minorities so as to include them on the qualified juror list. Because of these concerns, courts gradually abandoned the key-man system in favor of procedures that randomly selected names from a list of local citizens and then vetted them according to a series of objective qualification criteria. As a result of this change, virtually all of the jury commissioners’ discretionary power disappeared, as did the underlying rationale for separate qualification and summoning procedures.

The court should decide on the timeframe for operating under the phased-in approach. The NCSC recommends that the transition phase be no longer than 6 months or until the jury staff adjusts and feels comfortable with the one-step process. Higher volume courts that bring jurors in most, if not every, day may make the transition more quickly (e.g., 2 to 3 months) than lower volume courts. Lower volume courts may only have a couple of days each month to become acclimated to the new system.

Under the phased-in approach, it is very important that the jury staff be able to differentiate on the jury automation system between jurors summonsed under the 1-step

process from those summonsed under the 2-step process. This can be accomplished on the system by creating separate “jury pools” that are summonsed for the same day and tracking jurors through the pool number. An alternative method is to use different computer codes to indicate which jurors were summonsed under which process – e.g., SMND1 to indicate 1-step jurors and SMND2 to indicate 2-step jurors. This will provide the necessary documentation on which to determine the expected jury yield for 1-step jurors.<sup>3</sup> To calculate the number of

---

<sup>3</sup> See also, calculated report for your court’s expected jury yield for 1-step conversion in the calculated results for the 2-Step to 1-Step Conversion Tool.

people to summons for jury service, the court should divide the number of jurors needed by the 1-step jury yield. See Figure 1.

Figure 1: Formula to Estimate Number of Summons Based on 1-Step Jury Yield

$$\frac{\text{\# jurors needed}}{\text{1-step jury yield}} = \text{\# summonses mailed}$$

For example, if the court determines during its transition period that the 1-step jury yield is 45% and the court requires a pool of 60 jurors to report for service, it would need to mail summons to 133 names from the master jury list (60 jurors ÷ 0.45 jury yield = 133 summonses mailed).

A second approach is to implement the new process fully at a specified date. Based on NCSC experience assisting courts with this transition, we recommend against starting the first day after a holiday or vacation (e.g., the first of the year). Instead, choose a start date that coincides with a known low volume period, such as during the summer or winter holidays. If the court is considering installing new or upgraded commercial software, it can be an ideal time to begin the conversion, as the vendor will be able to offer assistance during the transition. Other procedural changes such as implementing a one-day one-trial system or adding a call-in system can easily be timed with a conversion to a 1-step process.

The court will still need to estimate the number of summonses to mail under this approach using information about both the qualification yield and the summoning yield under the existing 2-step system. See Figure 2. For example, if the same court still needs 50 jurors to report for service, but planned to implement the conversion to a 1-step system directly

rather than with a phased-in approach, it would need to examine both its qualification yield (58%) and its summoning yield under the existing 2-step process (66%) to determine the number of summonses to mail without pre-qualifying jurors. In this case, the court would need to mail 157 summonses (60 jurors ÷ ((0.58 or 58%) x .66)) = 157 summonses mailed).

Figure 2: Formula to Estimate Number of Summons Based on 2-Step Qualification and Summoning Yields

$$\frac{\text{\# jurors needed}}{(\text{Qual. yield} \times \text{Summ. yield})} = \text{\# summonses mailed}$$

Regardless of the implementation approach selected, it is important to recognize that the summoning yield under a 2-step jury process tends to be somewhat less variable than the jury yield under a 1-step jury process. That is, the yield in a 1-step system is likely to experience greater fluctuation on a day-to-day basis compared to the summoning yield under a 2-step system. The reason for the difference is logical: by pre-qualifying jurors under a 2-step process, the court has already removed some of the uncertainty about whether the person is qualified and available for service.

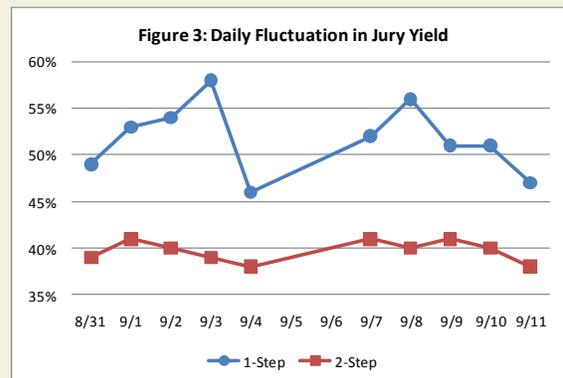


Figure 3 illustrates the overall jury yield for two hypothetical courts – one employing a 1-step jury process and the other a 2-step jury process.<sup>4</sup> On average, the yield for the 1-step jury operation is 52% over a two-week period, but the rate fluctuates between a high of 58% and a low of 46%. The 2-step jury yield is approximately 10 percentage points lower, but fluctuates less dramatically between 38% and 41%. Because of the greater variation in the daily jury yield, courts converting to a 1-step jury process *initially* may want to increase the number of people summonsed for any given day, until which time the jury manager has solid information on the degree of daily variation to expect. Canceling excess jurors through a telephone call-in system or other last-minute communication technology avoids having too many jurors report for service.

If the court permits jurors to postpone to a later date, this practice should be ceased past a certain date to accommodate the conversion process. Furthermore, it is important to also collect preliminary yield data to compare to the estimate provided in the Jury Managers' Toolbox reported calculations. The preliminary yield data will provide added support for making a smooth transition into 100% reporting under the new 1-step summoning process.

## **STEP 2 – Combine the Paperwork**

In addition to deciding on the conversion approach, the court will need to adapt the

---

<sup>4</sup> The average jury yield information reflects the national average reported in the NCSC *State-of-the-States Survey of Jury Improvement Efforts* (April 2007). Actual day-to-day yield variation will depend on local court conditions, especially non-response and failure-to-appear rates.

current questionnaire and summons information into a combined document. There are three principle parts to the new combined form.

1. *Jury Summons* – This is the legal document that requires the prospective juror to appear for jury duty at a specific location on a specified date and time. Some courts have designed the summons to include a juror badge including a bar coded identification number that can be separated along a perforated line.

2. *Juror Information* – This portion of the document includes the qualification questionnaire to determine the person's eligibility for jury service as well as any additional information the court needs to obtain from jurors before they report for jury service. Examples of addition information may include the person's intent to seek an exemption, hardship excusal, or deferral; name or address changes; contact information such as home or work telephone number or email address; and demographic information (race, gender, and ethnicity).

The *Juror Information* section should be designed to separate easily from the *Jury Summons* (Part 1) and the *General Information* (Part 3). This makes it easier for the juror to complete and send back to the court for data entry. Designing the form to segregate the different types of information (e.g., qualification, administrative, demographic) can facilitate the data entry process, especially for automated systems that employ imaging software. It can also facilitate the ability to

protect confidential juror information.<sup>5</sup> The form should provide clear instructions about when and how to complete the information including directions for sending information online or via an Interactive Voice Response (IVR) telephone system, if available.

3. *General information* – A frequent complaint from jurors is the lack of practical information about jury service provided with the jury summons. Information that jurors find especially helpful includes instructions about how to request an exemption, a hardship excusal, or a deferral; call-in instructions before reporting; a map to orient jurors to the courthouse and parking facilities (if available); and answers to frequently asked questions including the amount of juror compensation and the maximum term of service.

To save on printing and postage costs, many courts greatly limit the amount of information printed on the jury summons itself and instead provide a link to the court's website that jurors may visit to learn more about what to expect during jury service. The website can also provide background information about jury service as well as information for employers. Another technique employed by courts to save postage and processing costs is to omit a pre-paid or stamped envelope. Instead, jurors must provide the postage themselves, respond using interactive voice response (IVR) systems, or enter data into the court's secure website listed on the summons. See the "Online and IVR Technologies Tool" at Step 5 of the Jury Managers' Toolbox.

---

<sup>5</sup> See G. THOMAS MUNSTERMAN & PAULA L. HANNAFORD-AGOR, *THE PROMISE & CHALLENGES OF JURY SYSTEM TECHNOLOGY* 8-11, 32-44 (NCSC 2003).

The variations in juror summonses are endless. However, during a conversion to a 1-step summoning process, many courts lament the difficulty of combining *all* of the information from the juror questionnaire and the summons into one relatively manageable document. The NCSC recommends that the court review each element contained on the current forms to determine whether it is a unique and essential element. Some elements may be duplicative, and hence amenable to consolidation. Other elements may be more appropriately referenced on the court's website than in the mailed document.

### **STEP 3 - Lessons Learned**

Senior court administration and the jury management staff will recognize that the process has changed and should monitor the conversion from the 2-step to 1-step process closely. Judges and lawyers, on the other hand, should barely notice the difference, if at all. Nevertheless, it is advisable to provide adequate notice to the trial bench and bar with information about the pending conversion to a 1-step jury process so that the information does not unduly provoke anxiety or alarm. It is not necessary to inform jurors of the change, although a press release to local media describing the successful implementation of the new 1-step jury process may be appropriate after the fact.

## **Conclusion**

Courts that have converted from a 2-step to a 1-step process generally report that the transition is sometimes met with apprehension by jury staff, but that the long-term benefits greatly outweigh any temporary disruptions. The most difficult aspects of the conversion

generally involve accurately estimating what the new jury yield under the combined system will be, which is critical for knowing the number of prospective jurors to summons for jury service on any given day, and phasing in the new system while simultaneously phasing out the old system.

Disclaimer: the information discussed in this document was prepared by the National Center for State Courts and is intended to provide practical information for courts converting from a 2-step to a 1-step jury operation.